

AGENDA MEMO

CITY COUNCIL MEETING DATE: FEBRUARY 7, 2007

DEPARTMENT: PLANNING AND DEVELOPMENT

**ITEM DESCRIPTION: VAR-18325 - APPLICANT/OWNER: ONE + ONE
FOUNDATION, INC.**

**** CONDITIONS ****

The Planning Commission (7-0 vote) and staff recommend DENIAL. If Approved, subject to:

Planning and Development

1. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

Public Works

2. All site visibility restriction zones must conform to current City Site Visibility Restriction Zone Standards at roadway to roadway intersections and driveway to roadway intersections, or as otherwise approved by the City Traffic Engineer.

**** STAFF REPORT ****

PROJECT DESCRIPTION

Request for a Variance to allow a proposed eight-foot high block wall in the front yard where five feet is the maximum height allowed and to allow a portion of the top three feet to be solid where not permitted at 1506 5th Place.

| <i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i> | |
|---|--|
| 01/11/07 | The Planning Commission voted 7-0 to recommend DENIAL (PC Agenda Item #32/rl). |
| <i>Related Building Permits/Business Licenses</i> | |
| 06/24/02 | Home Occupation Permit/Business License S20-4286104858 issued to Robert and Nedra Baron at Subject site for Second Hand Dealer Class IV, out of business effective 06/05/06. |
| <i>Pre-Application Meeting</i> | |
| 11/14/06 | A pre-application meeting was held and the requirements for a variance as well as the design standards for front yard walls were discussed. |
| <i>Neighborhood Meeting</i> | |
| A neighborhood meeting is not required, nor was one held. | |

| <i>Details of Application Request</i> | |
|--|------|
| <i>Site Area</i> | |
| Gross Acres | 0.21 |

| Surrounding Property | Existing Land Use | Planned Land Use | Existing Zoning |
|-----------------------------|---------------------------|-----------------------------|---------------------------------|
| Subject Property | Single Family Residential | L (Low Density Residential) | R-1 (Single Family Residential) |
| North | Single Family Residential | L (Low Density Residential) | R-1 (Single Family Residential) |
| South | Single Family Residential | L (Low Density Residential) | R-1 (Single Family Residential) |
| East | Single Family Residential | L (Low Density Residential) | R-1 (Single Family Residential) |
| West | Single Family Residential | L (Low Density Residential) | R-1 (Single Family Residential) |

| <i>Special Districts/Zones</i> | <i>Yes</i> | <i>No</i> | <i>Compliance</i> |
|---|------------|-----------|-------------------|
| Special Area Plan | | X | NA |
| <i>Special Districts/Zones</i> | <i>Yes</i> | <i>No</i> | <i>Compliance</i> |
| Special Purpose and Overlay Districts | | | |
| A-O Airport Overlay District 200 Foot Buffer | X | | Y |
| Trails | | X | N/A |
| Rural Preservation Overlay District | | X | N/A |
| Development Impact Notification Assessment | | X | N/A |
| Project of Regional Significance | | X | N/A |

DEVELOPMENT STANDARDS

Per Title 19.08

| <i>Standard</i> | <i>Required/Allowed</i> | <i>Provided</i> | <i>Compliance</i> |
|---|---|---|-------------------|
| Min. Lot Size | 6,500 SF | 10,948 SF | Y |
| Min. Lot Width | 65 Feet | 93 Feet | Y |
| Min. Setbacks | | | |
| • Front | 20 Feet | 21.6 Feet | Y |
| • Side | 5 Feet | 9 Feet | Y |
| • Corner | 15 Feet | 15.4 Feet | Y |
| • Rear | 15 Feet | 33 Feet | Y |
| Max. Building Height | 35 Feet | 1 Story | Y |
| <i>Landscaping and Open Space Standards</i> | | | |
| <i>Standards</i> | <i>Maximum Height</i> | <i>Provided</i> | <i>Compliance</i> |
| Wall Height | 5 feet maximum height, with top 3 feet open to permit visibility. | 23-foot long, 8-foot wide fence, 49-foot long, 8-foot high block wall and 15-foot long, 8-foot wide fence | N* |

* Subject of this variance

ANALYSIS

The project proposes to construct a masonry block wall in the front yard and an ornamental iron fence along the side yard (southern property line shared with an existing single family residence). The wall will be as high as 8 feet within the front setback area, where 5-feet with the top three vertical feet open to permit visibility, is the maximum permitted height. The ornamental iron fence proposed along the side yard is proposed at 8 feet high which is the maximum permitted height consistent with Title 19 Residential Development Standards. The proposed wall would be constructed of an eight-foot high masonry along the front property line, with eight-foot high wrought iron fencing on either side of the wall.

Justification provided by the applicant for this variance refers to the threat of a stalker. In a Las Vegas Metropolitan Police Report provided by the applicant, a stalker had called and threatened individuals associated with the foundation. The report included indicated the address of 1508 Houssels Avenue as opposed to the subject site; however, the address indicated is the primary address of the One + One Foundation, owner of the subject site. The police report also indicates a different name than the justification letter as the target of the stalker.

The proposed wall has a height that far exceeds what is permitted by Title 19. However, a site visit showed that adjacent and nearby properties do have front yard walls and fences and corner side walls and fences up to six feet in height that would compliment the proposed wall. The property to the north has an eight foot wall in the rear which abuts the subject site and a six-foot corner side wall that runs along the sidewalk adjacent to the subject site. An eight foot decorative block wall runs along the interior side and rear yard property lines of the subject site, as confirmed by a site visit. The front yard wall would not block the view of the front of the house, as the structure faces the corner side and not the front yard property line. A proposed fence along the corner side yard requires no variance. As this is a self imposed hardship and is not compatible with adjacent development denial of this request is recommended.

FINDINGS

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by proposing a front yard wall and fence that exceed Title 19 standards. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

PLANNING COMMISSION ACTION

At the Planning Commission meeting there was one speaker in favor and one opposed.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 18

ASSEMBLY DISTRICT 9

SENATE DISTRICT 10

NOTICES MAILED 277 by City Clerk

APPROVALS 4

PROTESTS 5